



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JANUARY 27, 2004

PRESENT: Acevedo, Benich, Engles, Escobar, Lyle, Mueller, Weston

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe, Associate Planner (AP) Plambeck,
Associate Planner (AP) Tolentino, Senior Engineer (SE) Creer, and
Minutes Clerk Johnson.

Chair Mueller called the meeting to order at 7:09 P.M. *(There was no video recording of the meeting at this time)*

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Mueller opened the public hearing.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

The agenda was suspended at 7:11p.m. for conclusion of the review of the revised Draft Environmental Impact Report (DEIR) for the American Institute Golf Course and Mathematics Conference Center. The regular order of the agenda was resumed at 7:38 p.m.

MINUTES:

JANUARY 13, 2004

COMMISSIONERS ESCOBAR/ACEVEDO MOTIONED TO APPROVE THE JANUARY 13, 2004 MINUTES WITH THE FOLLOWING MODIFICATIONS:

Page 3: paragraph 10: ...~~narrowness~~ to small difference in

Page 4 (within motion): Exhibit B:

IV: 3/31/05

3-30-04

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 2

V: ~~6-30-05~~ 9-30-04

Page 5, paragraph 8: whether an ~~evaluation~~ review..... being included in the evaluation ~~for the Community Center?~~

Page 6, paragraph 5: ...deferring the ~~off on-site~~..... paid, *for the project that made the request, the off-site improvements.*

Page 6 paragraph 6: do ~~on~~ not apply

Page 9, paragraph 2: Commissioner Weston indicated his wish to have the non-profit representative from a larger geographical area, which he said might encourage greater participation in the application process and ultimately assist with increase in the affordable housing category.

(and last sentence)...needed, *but added that 'new blood' would be beneficial.*

Page 11, paragraph 2 (add): Commissioner Acevedo pointed out that the minutes of December 9, 2003 – page 2 – had noted the same request. He said his expectation was that the agenda item coverage at this meeting (January 13, 2004) would reflect the discussions.

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLER, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

OLD BUSINESS:

1) ZA-03-19: CITY OF MORGAN HILL-ZONING TEXT AMENDMENT/COMMUNITY ACTIVITY SIGNS

A request to amend Title 18 of the Municipal Code to modify the sign code to allow for community activity signs and changeable copy signs for public and quasi-public uses.

AP Plambeck presented the staff report, reminding this had been referred to the City staff for additional work, and asking that review be postponed until the February 24, 2004 meeting so that additional research might be accomplished. AP Plambeck explained that the request included changeable copy-signs for public agencies, schools, playhouses and religious institutions.

Chair Mueller opened the public hearing.

No persons were present who indicated a wish to speak to the matter.

COMMISSIONERS ESCOBAR/BENICH MOTIONED TO CONTINUE THE MATTER OF THE CITY OF MORGAN HILL-ZONING TEXT AMENDMENT/COMMUNITY ACTIVITY SIGNS TO THE PLANNING COMMISSION MEETING OF FEBRUARY 24, 2004. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.

NEW BUSINESS:

2) 6) UP-03-10: MONTEREY-HANES/ART GUILD & GALLERY

A request for approval of an use permit to allow an art guild that rents work spaces to artists, an art gallery, a weekly outdoor artist market, and one-residential unit in an existing house and accessory structure on a 10,000 sq. ft. lot. The site is located at 17265 Monterey Rd. in the Central-Commercial Residential zoning district.

AP Plambeck presented the staff report, telling the Commissioners the applicant is

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 3

proposing using the Morgan Hill Art Guild and Gallery, Art in the Alley and a residential unit upstairs in the main structure. This will be a membership organization where artists could rent workspace in the existing home and accessory structure, with artist's work being displayed and sold, with nine work spaces for rent Wednesday through Sunday. On Saturdays, from April through November the applicant would manage "Art in the Alley" operating an outdoor artists' market in the existing parking lot. The application also asks for a 780 sq. ft. apartment over the main dwelling. AP Plambeck said that because of the planned conversions to the structures on the site, all will need modification to comply with current building codes for commercial use. AP Plambeck explained that on Saturday the artists' market will work in conjunction with the Farmer's Market and most of the traffic to the site will be pedestrians. AP Plambeck discussed the provision of the Municipal parking code which allows waiver of the on-site parking requirements. The Commissioners engaged in discussion regarding the parking areas, especially on weekends when larger attendance is anticipated. It was noted that because it will be on the weekend, more on-street spaces will be available; in addition, there are a number of City parking lots in the general area.

Commissioner Acevedo spoke on the provisions of obtaining a permit which required sellers to provide copies of the Franchise Tax Board resale license for collection of taxes for the City, noting a requirement of this type is not mentioned. "So how are we going to get the tax dollars?" Commissioner Acevedo asked. AP Plambeck said this would be the responsibility of the Gallery, who would rent the spaces to the artists. Details for the Saturday market vendors are still in progress.

Commissioner Escobar asked if the use is less intensive than the Farmer's Market. [Yes]

There is no garage on site. The site is existing non-conforming., AP Plambeck. There will not be required covered parking for the residence. Driveway approach and the materials used for the drive (gravel) were discussed. This led to discussion of the ability of the project to meet ADA standards. The owner is installing a ramp and other measures to ensure ADA access.

Commissioner Acevedo asked about prior hearings on this property. AP Plambeck clarified the prior action (use determination), telling Commissioners the request tonight is for the use permit.

Chair Mueller opened the public hearing, noting the applicant was in the audience should there be questions.

With none present indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Weston said this is an incredibly wonderful project and the kind that are needed downtown. He went on to ask if sprinklers were required in the project. AP Plambeck explained that a recent Ordinance passed by the City Council make it easier for businesses to operate; whereby in lieu of sprinklers, an owner can install smoke detectors. The applicant is working with the Building Division to ensure the best level for fire detection/prevention purposes.

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 4

Commissioner Benich said he thought the final standard conditions should reflect that fire extinguishers were acceptable; AP Plambeck said this would be done.

Chair Mueller said that because of proximity of the creek to the graveled area used for parking by the resident, care must be taken to prevent pollution of the Creek.

Chair Mueller expressed concern this is right up next to the creek and if cars will be present, there would be non-point source pollutants. "I don't want them into the creek," he declared. "This is within 25-feet of the creek." Other Commissioners pointed out that only one resident/one car will be on the site.

Commissioners discussed the concerns of the parking down town. This area, Commissioner Lyle, is noted for the lack of parking. "I know that the Ordinance permits it, but I am concerned that we will have difficulties about parking in the near future in this area.

COMMISSIONER WESTON OFFERED RESOLUTION NO. 04-05, APPROVING AN ART GALERY WITH RETAIL SALES, ART GUILD THAT RENTS WORKSPACE TO ARTISTS, AN OUTDOOR WEEKLY ARTIST'S MARKET AND ONE RESIDENTIAL UNIT ON A 10,000 SQ. FT. LOT WITH AN EXISTING 1792 SQ. FT. SINGLE-FAMILY HOME AND A 792 SQ. FT. ACCESSORY STRUCTURE IN THE CENTRAL COMMERCIAL - RESIDENTIAL ZONING DISTRICT, SUBJECT TO THE CONDITIONS CONTAINED THEREIN, AND THE FOLLOWING MODIFICATIONS:

- 1. Exterior alterations to the building be reviewed by the subcommittee of the ARB; if warranted and or significant, the matter will go to the full ARB and that the guardrail, handrail design and ramps be studied by the ARB as well.**
- 2. Sales tax capture be clearly spelled out – all participating artists who sell ~~their own~~ works shall provide the operator of the Gallery with a copy of the Franchise Tax Board resellers permit, with a copy of the permit given to the City.**

THE MOTION WAS SECONDED BY BENICH AND PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLER, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

For the record, Chair Mueller informed that unless appealed, a use permit is valid at the end of 30 days. PM Rowe agreed, adding that there is a one year period for activation of the use permit.

3) UPA-88-05: EL TORO-AT&T WIRELESS

A request for approval of an amendment to an existing Conditional Use Permit to allow the removal of six omni antennas from the existing VTA monopole and the installation of eight panel antennas on eight poles mounted along the perimeter fence.

PM Rowe presented the staff report, giving an overview of project since the original approval in June 1988. The antenna pole is City owned and has been co-used by AT&T since June 2002. "This project," PM Rowe said, "consists of a modification to

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 5

relocate the antennas within the City's property and will not affect other portion of the site." PM Rowe reminded that a joint use by the City and VTA replaced a wood pole with a metal one for a joint use. The agreement AT&T allows up to nine omni directional antennas on the mono pole. This site handles considerable communication traffic and there is intent to replace for upgrade the omni antennas (which would be removed) with panel antennas, which are lower in height and would be mounted on eight separate 15-foot tall poles. There would be little change in the site itself.

Commissioner Escobar called attention to recent news reports that Cingular Communications have made an offer on AT&T. He noted a recent action by the Commissioners giving Cingular site within the City, and wondered if this might have an impact on reducing the number of faculties in the City. Chair Mueller responded that he did not think this to be an issue because of the differences in technology results in incompatibility and it might be years before they were meshed.

Commissioner Lyle asked what value the City would receive for allowing this modification? Will there be better reception, he asked. PM Rowe said this would be the case, as there would be greater capacity.

Commissioner Acevedo inquired if all AT&T antennas would be removed from the monopole. He also asked about the approval process in June, 2002, dealing with equipment on the site; under the terms of the lease agreement staff could handle the request. PM Rowe explained the use permit was approved for VTA by the Planning Commission, and under terms of a separate lease, AT&T was allowed to use the City/VTA mono pole.

Chair Mueller opened the public hearing.

With no one in the audience indicating a wish to speak to the matter, the public hearing was closed.

COMMISSIONER BENICH OFFERED RESOLUTION NO. 04-06, APPROVING AN AMENDMENT TO A CONDITIONAL USE PERMIT TO ALLOW REMOVAL OF EIGHT ANTENNAS FROM AN EXISTING MONOPOLE AND INSTALLATION OF EIGHT PANEL ANTENNAS ON EIGHT POLES MOUNTED ALONG THE EXISTING PERIMETER FENCE LOCATED AT THE EXISTING CITY OF MORGAN HILL WATER TANK ON THE EASTERLY SLOPE OF EL TORO. COMMISSIONER ESCOBAR SECONDED THE MOTION. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: BENICH, ENGLES, ESCOBAR, LYLE, MUELLER, WESTON; NOES: ACEVEDO; ABSTAIN: NONE; ABSENT: NONE.

Commissioner Acevedo said that he opposed the motion on the basis of the aesthetics. "I like this area a lot, and my business is named after the mountain. Some sort of masking of pole would be attractive; the bareness of this structure as proposed is not pleasing," he said.

(Video recording of the meeting commenced)

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 6

4) ZA-03-14/SD-03-12/DA-03-11: SAN PEDRO-DICONZA

A request for approval of a zoning amendment to RPD, subdivision and development agreement for 32 single-family homes and lots in the R2-3,500 zoning district located at the northeast corner of San Pedro Ave. and Butterfield Blvd. on a 6.6-acre lot.

AP Plambeck presented the staff report, noting this is asking for approval of the development agreement for 24 units (Phases I, II, and III) of the San Pedro Villa project, which will be at the north east corner of San Pedro Avenue and Butterfield Blvd. AP Plambeck reviewed the major points of the zoning, lot layout, building design, and amenities of the project.

AP Plambeck noted that related to prior Commission discussion, the applicant is asking for detachment of some of the units due to the high cost of insurance. There will be a PUD over the entire project which the applicant has applied for. AP Plambeck pointed out the Conditions in connection with the project, including noise and biological mitigations. There will be three phases of the project with others to be developed in the future. AP Plambeck pointed out the changes which have been made in the standard conditions and the development agreement, which will be noted in the actions taken with the adoption of the Resolutions.

Commissioner Lyle asked SE Creer if the proportionate costs of phase(s) 1 – 3 of Walnut Grove equal about three-fourths of the cost? SE Creer said he had met with the developer and had discussion regarding the three phases. In phase 1 there will be the right-of-way dedication, phase 2 design work, and road construction in phase 3 and possibly phase 4. “So the cost breakdown would be somewhat proportional,” SE Creer explained.

Commissioner Weston asked when the unnamed street which connects to San Pedro will be constructed? He explained that his concern is the access for fire apparatus and emergency exits. SE Creer said it appears the extension will occur during phase 2.

Commissioners raised the following issues for clarification by AP Plambeck:

- Noise reduction/sound wall
- Numbering of phases and units therein for mitigation notations
- Materials recommended for sound walls
- BMR and alternative drawings – clarified the physical separations to meet the requirement
- Possible under-grounding of utilities along San Pedro

Chair Mueller opened the public hearing.

Joe DiConza, 17310 Hendry Dr., spoke with Commissioners as the applicant. He said that he wanted to point out some corrections: such as different parts of the staff report mentioned detention ponds (page 3, bottom); however, there are no detention ponds on the site. Mr. DiConza also pointed out that in the Standard Conditions on page 12 (D 1), there is mention of detention ponds and it is not applicable. Chair Mueller said there still needs to be calculations so the City can know what the run-off will be into Butterfield Channel. Following discussion, it was agreed that the staff report would be corrected; it was also noted that Butterfield is a retention, not detention, area. Mr. DiConza continued that Standard Conditions on page 11 (C) Sanitary Sewer System

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 7

were also incorrect as there is no on-site detention; so C will be dropped. SE Creer suggested striking the second and third sentences and leaving the remainder of the section. Turning to the Development Agreement on page 9 (O - 7), Mr. DiConza said he did not understand the requirement for improvement on San Pedro Street. "We did not propose this in our Measure P application, nor did we get credit because we were doing all the improvements on Walnut Drive," he said. "We did not propose going across the street as there was another developer doing the work on that area." Also corrected was Resolution 04-07, page 2 ~~Alicante Estate project.~~

Commissioner Benich called attention to the Residential Development Agreement, page 9 (O iii) asking if a sheltered bus stop would be placed? Commissioner Benich said he stressed this because the City is encouraging the public to use mass transit and sheltered bus stops would enhance that use. Mr. DiConza read from his original application, noting that he has agreed to construct the stop to current VTA standards. SE Creer said sheltered stops are a 'two edge swords. "It is not realistic from a Public Works standpoint because there is no way to duck out a bus on Butterfield as it would require the bus to stop in the number two lane. It would impede traffic and Public Works could not support such a proposal." Commissioner Benich took issue with that, saying, "I disagree, it would not take much to cover the stop." Discussion resulted which indicated that identifying an alternate bus stop location on San Pedro Avenue would be necessary.

Commissioner Weston asked about the street extension for emergency access? Mr. DiConza called attention to his correspondence to City staff regarding the matter which was included in the mailing to the Commissioners. Mr. DiConza said that the improvements for streets would be begun in phase 2 and completed in phase 3, with the overlap and timing pulling permits is problematical. "We will put in the roads and we want to, but the problem is the phasing and pulling permits," Mr. DiConza said. "So, can you hold off on building lots 3, 4, and 5 in phase 2 while you are putting in phase 3's roads?" Commissioner Weston asked.

Chair Mueller said the ideal thing to have happen would be for Measure C to pass so some of the allocations could be 'moved up'. Mr. DiConza agreed. Chair Mueller said this is one of the projects which would be desirable to accelerate if the supplemental building allotment distribution happens.

Commissioner Lyle said if Measure C passes, some of the on-going developments can ask for supplementals and perhaps some additional allotments could help move those along. Commissioner Lyle also asked if the schedule for Walnut Grove is 'spelled out' in the development agreement, would that be a problem? Mr. DiConza said it would not, as long as it is what he wrote.

With no others present wishing to speak to the item, Chair Mueller closed the public hearing.

COMMISSIONERS WESTON/ACEVEDO MOTIONED ACCEPTANCE OF THE MITIGATED NEGATIVE DECLARATION, INCLUDING THE FINDINGS, INDICATED IN THE STAFF REPORT, AND INDICATING THE SOUNDWALL WILL BE MASONRY OR CONCRETE BLOCK INSTEAD OF WOOD. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF

ALL COMMISSIONERS PRESENT.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 04-07, RECOMMENDING APPROVAL OF A RESIDENTIAL PLANNED DEVELOPMENT AND ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR A ~~32-~~ 24 UNIT MULTI-FAMILY PROJECT LOCATED AT THE NORTHEAST CORNER OF SAN PEDRO AVE. AND BUTTERFIELD BLVD., INCLUDING THE FINDINGS AND CONDITIONS, WITH THE FOLLOWING MODIFICATIONS:

Page 2: Section 11 ~~Alicante-Estates~~ San Pedro Villas

Page 3: Exhibit A: Lots 1, 3, 4, 7 and 9 receive deviations (approved modified setbacks) due to the detached units

THE MOTION WAS SECONDED BY COMMISSIONER ACEVEDO AND PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 04-08, APPROVING A 24-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION (PHASES I, II, AND III) OF AN OVERALL 32-UNIT PROJECT LOCATED AT THE NORTHEAST CORNER OF SAN PEDRO AVE. AND BUTTERFIELD BLVD. IN AN R2-3,500 RPD ZONING DISTRICT, CONTAINING THE FINDINGS AND CONDITIONS INDICATED, WITH THE FOLLOWING MODIFICATIONS:

Standard Conditions

Page 2, II item B is to be checked.

Page 11: XIII, item C ~~33~~ 30

XV, ~~item C~~

THE MOTION WAS SECONDED BY COMMISSIONER BENICH AND CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 04-09, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION DA-03-11: SAN PEDRO – DICONZA FOR APPLICATION MP-02-07: CORY – SAN PEDRO PARTNERS, INCLUDING THE FINDINGS AND CONDITIONS, AND WITH THE FOLLOWING MODIFICATIONS:

2ND Whereas: ~~38~~ 24

Page 21: XXIII (Other conditions), item 10 ~~10%~~ 4 units

Development agreement:

Page 9, g (vii) ~~full~~ partial

Section 14: Add elements of affordable and moderate units in accordance with standard language (v, w)

And also inclusion of the provisions of development for the Walnut Grove subdivision.

THE MOTION WAS SECONDED BY COMMISSIONER WESTON AND PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 9

5) ZA-03-15/SD-03-13/DA-03-12: PEET-LUPINE

A request for approval of a zoning amendment, subdivision and development agreement for Phases 1 through 3 of a 90-unit single-family development on an approximate 61-acre site. The subject site is located at the northeast corner of Cochrane Rd. and Peet Rd. in an R-1(12,000) zoning district.

AP Tolentino presented the staff report. The developer is requesting flexibility in site development standards for this project, specifically approval of reduction of lot size for seven of the BMR units, and a reduction in setbacks for 51 of 90 total units. As to the subdivision, AP Tolentino explained the phasing of the allotments for the entire projects. The applicant is also proposing a sound wall along Cochrane Road and Peet Road; during the Measure P competition, the applicant received two points for not proposing a sound wall, AP Tolentino said. The request for the sound wall at this time is for several reasons, including noise attenuation, aesthetic basis (a decorative wall along Peet Road), and a reduction in the Peet Road frontage landscape buffer due to a shift in the centerline of the roadway. She explained that the right-of-way for Peet Road needed to be shifted to the north approximately fifteen and a half feet, thereby reducing the frontage on Peet. In order to maintain the overall Measure P scoring, AP Tolentino said staff is recommending that an alternative commitment valued at one-point be provided to offset the original scoring. Page 10 (iii) of the development agreement, AP Tolentino said, contains a modification: the timing for the commitment: phase one – dedication, phase two – design, and phase three – construction.

Commissioner Lyle said he had a question, and it was related to Mission Ranch (agenda item 6); this project is required to put in the improvements to Peet on its frontage. The Mission Ranch project committed to do that and got extra points for that. “So I assume this project will be putting in their own improvements.” SE Creer said that is up for debate, there is a question and the developer intends to address it.

Commissioner Weston noticed that the developer is requesting to have modifications of setbacks for 51 of the 90 units. The applicant suggests this because he has provided land for the future school (in a prior agreement). Commissioner Weston asked if the School District has agreed to this? PM Rowe recalled the action by the Commissioners in February 2003, and the project was awarded points for this. Chair Mueller said a letter had been received from the School District included in the Measure P application for the project stating that the School Board had accepted the dedication of this school site.

Commissioner Acevedo asked if with the sound wall whether the homes on Cochrane Road would meet the sound requirements? AP Tolentino said they would meet those requirements, but not along Peet Road. Responding to Commissioner Acevedo’s question, AP Tolentino said she recalled the total points for the project were 183. “It was a very high scoring project that ‘maxed out’ in most of the categories,” AP Tolentino said.

Commissioner Weston clarified the applicant’s intent to put the sound wall on Cochrane Road, with the fencing along the cul-de-sac bulge being wrought iron then continuing with sound wall again. As to the meandering sidewalk, Commissioner Weston noted it is on public as well as private property. SE Creer said that in the past

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 10

an easement has been secured for the area that meanders through the private property.

Chair Mueller opened the public hearing.

Dick Oliver, the applicant, asked that John Kennett, 1645 Cochrane Rd., be permitted to speak so that as the applicant he could address those comments.

Mr. Kennett said he had lived at his location since 1992. He said this location is in the middle of the stretch that he proposed development will encompass. Mr. Kennett clarified the notices he had received regarding this item: one for this meeting and the second for the ARB. "The neighbors have met extensively during the time that Summerhill was proposing to develop this site. So when I speak, I can reflect what they feel as well.

We really would like you to consider the way this is finished along Cochrane Road. We suggest finishing the intersection at Peet and Cochrane, run the curbs and gutters and sidewalks around the corner the way it has on the other side and that then you leave the rest of Cochrane as a rural road leading to the park, leading to the creek, and leading to what is an area that will have no additional development," Mr. Kennett asked. Now there is no reason to widen this road, as he explained the configuration of the road. Mr. Kennett explained the ideas the neighborhood have envisioned for configuration of the road, saving the row of walnut trees with possible placement of additional/replacement trees, and consider wood fences instead of the masonry/stucco 'prison' walls as the wood would look more natural and fit into the area better. The new development will have larger lots so fencing would be more fitting, he said.

Mr. Kennett also asked for a different configuration for the cul-de-sac fencing facing Cochrane; "We would prefer to see wood at the end of these instead of wrought iron," Mr. Kennett said. Mr. Kennett said he had not been aware until tonight that a through street was planned, and that was cause for concern.

Commissioner Weston said in his opinion the Commissioners could not override the Public Works plan for curbs, gutters, and sidewalks.

Dick Oliver, 275 Saratoga Ave., #105, Santa Clara, the applicant, said he supports the comments and suggestions of the prior speaker. "I had initially requested that we be able to put a cul-de-sac instead of the through road to Cochrane. I think it is not justified and will cause more problems than not. There is this rural street on the left going up so if there is any way the City can see for us to do a rural street there I think it would be to the advantage of the community as well," Mr. Oliver stated. He acknowledged agreement for increased landscaping at the ends of the cul-de-sacs if so ordered.

Mr. Oliver said he is really caught in a 'quandary' on the sound wall, "We did agree there would be no sound wall and I'm willing to not have a sound wall. In fact, it's critical if I'm going to lose points in all future competitions because there is a sound wall, then I need to amend this to omit that sound wall, but that would require the Commissioners to find overriding considerations to eliminate the sound wall, which was suggested as a necessary mitigation in the EIR done two years ago." Mr. Oliver said he would cause a sound study to be done, and put in special windows and sound

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 11

board on the walls on the houses that front on Peet Road, if necessary. He stressed that there are no sound walls on Cochrane Road at this time.

As to the staff report, Mr. Oliver noted that there is a list of deviations on the setbacks. The only lot size deviations are in the BMR units, he said. Referencing a City Ordinance (18.18.095), Mr. Oliver stated that under the terms of the RPD, total compliance will be covered. He assured that no variation beyond the RPD is being requested. Concerning the rear set backs, Mr. Oliver stressed the lot layouts of the BMRs and moderate rate units, and explaining the corner layouts which he insisted meets the intent of Measure P. In an R-1 PD, the front yard setbacks we're requesting are totally allowable, Mr. Oliver stated.

Mr. Oliver spoke on the intent of relocating the utilities, the delay of which resulted in the shifting of Peet Road, as indicated in the staff report. He explained that with the agreement of Public Works, Mission Ranch has to go to Alicante and say "We need fifteen and a half feet of your property". To do that, we had to scale back the size of many of the lots, reducing them by fifteen and a half feet. Mission Ranch ownership is totally separate from Coyote Estates and Alicante. In working the shift of road center line out, we were able to do so with some variation to the RPD."

Mr. Oliver referred to Page 11 of the Standard Conditions, item B, which is to complete all the improvements on Cochrane and Peet Roads. Initially there was a tentative map for all three phases. Mr. Oliver said that in January he had discussion with staff indicating that all improvements would have to be put in on Cochrane as a condition of all three phases. The issue is, Mr. Oliver, explained, Coyote Ranch already has a development agreement which obligates them to put in improvements at specified locations. SE Creer interjected that Mission Ranch has the same obligation for improvements along Peet Road. Mr. Oliver continued that there are no lots in phase 1 that are in the area designated for improvements by Coyote Ranch at this time, so Coyote Ranch would be responsible for the improvements which will benefit Alicante. Mr. Oliver stressed that even though he represents the three subdivision/developments, they are under separate ownership. Mr. Oliver spoke on the agreements and timing for improvement(s) placement. He explained the timing of placing the improvements so that once completed, no further construction disruption will need to occur.

Commissioner Lyle said, While it makes sense for Mission Ranch to meet the obligation at this time, on the other hand, I don't think it's right for Alicante to get off free." Mr. Oliver said he would address that issue: The commitment was made by all three projects without any knowledge as to which would receive approvals. Each of the projects is fulfilling the commitment that it made. "Now it's true that in each case somebody else gets an off-site benefit from other people." Mr. Oliver said that reimbursement agreements had been entered into by the developers and it is just a matter of timing. He stressed that a developer does not receive Measure P points for completing frontage improvements on their projects. Mr. Oliver said that benefit to the City is that Peet Road will be done a year earlier than it would have otherwise. Mr. Oliver spoke on the commitment to the school which is worth three million dollars, then the benefit received by Alicante in this improvement is top-quality.

Mr. Oliver said the request is for a lesser density than is allowable. "I think we've

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 12

gone overboard. The school is a direct benefit to the City,” Mr. Oliver maintained. “I don’t think any other developer has made this kind of commitment during the past ten years.”

Mr. Oliver said that if the tentative map issue could be resolved, it would be helpful. That issue, Mr. Oliver said, is that Public Work needs to condition phase 2 and phase 3 maps even though they would be recorded later, that there be a requirement for Alicante to do the same things as Mission Ranch.

Mr. Oliver also called attention to Standard Conditions on pages 11 and 12, wherein he stated that there are no storm detention facilities or basins on the project. Commissioners agreed the same language as for the DiConza project would be proper.

Responding to questions, PM Rowe said that this project could support wood instead of masonry sound walls and consequently, the Development Agreement (page 7, xvii) was amended. Commissioner Acevedo reiterated clarification that the elimination of the sound walls could be achieved with the installation of sound board in the walls, special windows, and building features in the houses on Cochrane. Mr. Oliver continued his concerns regarding the sound wall issues and problems with future competitions where he fears losing points.

Mr. Oliver indicated a problem of timing in item L (i) on Page 7 of the Development Agreement asking for a variance in the schedule which ‘really fouls up the timing and scheduling’. We really need to be able to pull permits all at one time. Chair Mueller led discussion on the ‘intent’ in this matter. This led to further discussion of the three replacement units in the project, during which it was indicated these three do not carry the same Measure P requirements as others (page 10).

Commissioner Weston said to Mr. Oliver you argued that the density increase as justification for the setbacks, but as I look at the design of side garages instead of front garage, I wonder why vary the setbacks? Mr. Oliver explained the requirements in R1-12,000 and how people want large rear back yards with large houses.

Commissioner Benich asked about the walnut trees Mr. Kennett had mentioned? Mr. Oliver discussed the condition of the walnut trees and possible replacement. He said the project could save money by not widening the street. Mr. Oliver said there is a need for feeling it is a neighborhood.

SE Creer said the street will be developed at some point in time because of the potential developments in the area. SE Creer spoke of the potential parking problems on Cochrane on weekends.

With no others present and indicating a wish to speak to the matter, the public hearing was closed.

Chair Mueller spoke on the idea of eliminating the sound wall. A major concern, he said, is if the wood fences are placed, the concern is not because of building features, but a worry about side yards with wooden fences, maintaining the wood fences, CC&Rs, and some thought as to how Cochrane looks.

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 13

Commissioner Engles left the meeting at 10:43 p.m. and returned at 10:47 p.m.

Commissioner Lyle talked about increases in traffic. "There will be more traffic," he said, "the General Plan says there will be more traffic, and so I don't see how the area will retain its rural character.

Commissioner Weston spoke on concerns of increased lighting if the street is upgraded and a sound wall placed. Commissioner Weston said he wants Cochrane retained as a rural street standard and wants to keep street lights off the road.

Mr. Kennett said that the north side of Cochrane is lighted in this area.

Commissioner Acevedo said his thinking is that Cochrane Road should be upgraded and spoke on upgrades at Lake Anderson that will increase traffic. He continued by speaking on how much traffic is present on the road currently. "It is so busy that there is a need for two wide vehicles to have room to meet and pass, but not increase speed. Sidewalks are important, as well as lighting, but retain the rural feeling."

Chair Mueller said that with the improvements, the area will not retain the rural flavor if collector standards are imposed on the road.

Commissioner Acevedo talked about the trees which are in place.

Commissioner Engles said that by looking 15 - 20 years ahead, it is not practical to leave the road rural.

Commissioner Weston indicated he is 'OK' with upgrading the street but not placing the curb, gutters and lighting. Commissioner Escobar and Benich indicated agreement.

Commissioner Lyle said there is no justification for deviation from the General Plan.

Commissioner Escobar left the meeting at 10:52 p.m. and returned at 11:04 p.m.

SE Creer said that the Municipal code requires full improvements. SE Creer remarked about the importance of doing Cochrane to the collector standard and doing it now. Included in the points SE Creer made:

- pavement maintenance risk/problems if curb and gutter are not put in when Cochrane road is improved or in the process of being improved BOTH east and west of the project, so a short area of rural road is not appropriate
- lights are already in place on the other side of the street, so additional lighting on this project's side is not such a problem (most of the Commissioners indicated surprise at this information)

Several Commissioners also commented on the traffic growth in the area, raising concerns about the current safety of the road in the area.

Commissioners also discussed the following items:

The possible creation of an 'island of rural'

Replacement trees to be 36-foot box trees

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 14

The developers' offer to pay in-lieu of not putting in curb, gutters & sidewalks

SE Creer said this would be protection for the public and also minimize water damage on pavement.

Elimination of overhead/street lighting

Possibility of angling the connector street and funneling traffic west

Need to achieve resolution of the street standard for Cochrane

Residents wants to retain rural flavor

Commissioner Escobar stated the consensus:

no sound wall

increased landscaping

retention of collector standards for Cochrane

existing cul-de-sacs to be upgraded with landscaping

Tentative map to cover all three phases (SE Creer reiterated the issue: Coyote commitment to street improvements in this project guarantees that

Cochrane will be improved, so why would Alicante be conditioned?

Would go against what originally committed to by developer? Alicante has already made a commitment. This project, SE Creer said, by code must be conditioned for improvements.)

Commissioner Escobar said that what Coyote Estates has not done is a commitment to the public good, but we can't dismiss as a contribution to the community that the developer is trading an improvement here to do an improvement to another area.

"Looking for whether general the public good has been dealt with in these projects is what we must do," he said..

Commissioner Lyle informed that the problem first came up when two people made cross promises to do each others improvements suspicious; so the criteria was changed to cover that. Commissioner Lyle explained by providing a brief overview of the history. "The argument can be made both ways," he declared. "Originally we wanted to protect City guaranteed projects," Commissioner Lyle said, as he explained the historic reasons for having the project put in off-site improvements.

Commissioner Lyle commented that if a reciprocal agreement is in place, the Measure P points would become meaningless and the City would not gain.

COMMISSIONER ACEVEDO OFFERED RESOLUTION NO. 04-10, RECOMMENDING APPROVAL OF A RESIDENTIAL PLANNED DEVELOPMENT AND ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR A 90-UNIT SINGLE-FAMILY PROJECT LOCATED AT THE NORTHEAST CORNER OF COCHRANE RD. AND PEET RD., INCLUSIVE OF THE CONDITIONS AND FINDINGS. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLS, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER ACEVEDO OFFERED RESOLUTION NO. 04-11, APPROVING A 38-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION (PHASES 1, 2 AND 3) OF AN OVERALL 90-UNIT PROJECT LOCATED AT THE NORTHEAST CORNER OF COCHRANE ROAD AND PEET ROAD IN

AN R-1 (12,000)/RPD ZONING DISTRICT, INCLUDING THE FINDINGS AND CONDITIONS, WITH THE FOLLOWING MODIFICATIONS:

Cochrane Road built to collector standards; no sound wall (alternative noise attenuation measures required), increased landscaping along roadways, existing cul-de-sacs upgraded with landscaping; Standard Conditions XIII .B (page 11) and XXIII .6 and .7 (page 21): frontage improvements required if not already constructed by neighboring project; Standard Condition XV .C (page 11): delete second and third sentences.

THE MOTION WAS SECONDED BY COMMISSIONER ESCOBAR AND CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLER, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER ACEVEDO OFFERED RESOLUTION NO. 04-12, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION DA-03-12: PEET-LUPINE FOR APPLICATION MP-02-12: PEET-LUPINE INVESTORS/BORELLO, INCLUSIVE OF THE CONDITIONS AND FINDINGS, AND CONTAINING THE FOLLOWING MODIFICATIONS:

Page 7 (i) (xvii) delete requirement for alternate Measure P commitment;

Page 7 (I) (i)issuance passing of the BMR framing inspection required prior to framing inspection of the 12th unit;

Page 10 (iii) (Add) Applicant shall receive credit for the excess improvement cost in the next or future phase of the development in accordance with the terms approved by the Public Works Director;

Page 10 (p) add requirement for path connecting cul-de-sac to common area park

COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLER, ESCOBAR, MUELLER, WESTON; NOES: LYLE, who reiterated the concerns listed during discussion: a form of 'double-dipping' when placing the improvements and lack therein of benefit to the City; ABSTAIN: NONE; ABSENT: NONE.

6) SD-03-14/DA-03-13: MISSION VIEW-MISSION RANCH

A request to approve a 38 lot subdivision of a 9.46 acre portion of the Mission Ranch project located on the south east corner of the intersection of Cochrane Rd. and Mission View Dr. The proposed subdivision and corresponding development agreement will represent phases 7, 8 & 9 of the Mission Ranch project which is located in the R-1 & 7,000/Residential Planned Development zoning district.

PM Rowe presented the staff report, saying this contains two phases and is essentially an internal infill. Many of the drainage, off-site improvements, parks, etc. are already completed; therefore, there are far fewer conditions checked in the Standard Conditions. The only change is the separation of the duet lots in the corner lots and this is allowed by Ordinance, but only those phases which are under construction by June, 2005.

This phase will serve to complete a number of connections to various amenities.

Commissioner Lyle said that on Page 10 N (ii) and O (v) of the Development

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 16

Agreement there is an almost duplicate indication of a \$2,000 payment. He suggested clarifying the matter for clear distinction to avoid future confusion. PM Rowe said the report would be clarified to reflect those are separate items.

Chair Mueller opened the public hearing.

Dick Oliver, 275 Saratoga Ave, #105, Santa Clara. was present as the representative of the applicant to answer questions.

Mr. Oliver said that on Page 7 of the Development Agreement, item xiii (requirement for extending some walks), he needed a language change – last sentence should read: “And completion of a *paved* pathway on Mission View to Live Oak High School as part of a joint commitment with Alicante and Coyote Projects.” He reminded that all three projects are funding the pathway which goes all the way along Mission View to the High School, this being a commitment in Measure P. It will be completed in this phase. SE Creer has indicated in talks with Mr. Oliver that it would be preferable to have the walkway on Peet rather than Mission View. Considerable discussion ensued regarding the potential placement

Mr. Oliver pointed out that Development Agreement, page 10, item 10 i , it says phase shall connect Sierra Aveneda to the second Peet Road intersection. It should read, he said, to the second Mission Aveneda intersection. Following discussion with Mr. Oliver, the Commissioners and staff agreed.

Noting that no others were present who indicated a wish to speak to the matter, Chair Mueller closed the public hearing.

COMMISSIONER BENICH OFFERED RESOLUTION NO. 04-13, APPROVING A 38-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION ON A 9.46-ACRE PORTION OF TWO PARCELS LOCATED BETWEEN MISSION VIEW DR. AND PEET ROAD, CONSISTENT WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND WITH THE FOLLOWING MODIFICATIONS:

And completion of a *paved* pathway on Mission View to Live Oak High School as part of a joint commitment with Alicante and Coyote Projects to the specification stipulated by the Public Works Department

Page 10, item 10 i, ...connect Sierra Aveneda to the second ~~Peet-Road~~ intersection Mission Aveneda intersection

COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLS, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER BENICH OFFERED RESOLUTION NO. 04-14, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION, DA-03-13 FOR APPLICATION MP-02-15: MISSION VIEW DR.-MISSION RANCH, IN HARMONY WITH THE FINDINGS AND CONDITIONS CONTAINED WITHIN. THE MOTION WAS SECONDED BY COMMISSIONER ESCOBAR AND PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLS, ESCOBAR, MUELLER, WESTON;

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 17

NOES: LYLE, as he indicated that he was beating the drum again; this project is not only getting credit for other project, but credit for ‘excess improvement’; ABSTAIN: NONE; ABSENT: NONE.

7) SDA-93-04: SAN PEDRO- BETPOLICE/ INSTALLATION OF SOUND WALL FOR THE VILLAS SUBDIVISION

A request to amend the condition of the subdivision map approval for a 41-unit single family residential development; the “Villas Subdivision” located on San Pablo Ct., San Benito Pl., San Gabriel Ave. and San Gabriel Ct., to allow an alternative design and placement of a sound wall fence within the existing development.

PM Rowe presented the report, noting that when the Villas Subdivision was completed, a sound wall was to be installed as a condition of the subdivision approval. This sound wall was considered necessary because of the potential for noise from Butterfield Blvd. upon completion of the extension of that roadway. The project had been considered to be one unit, but was completed in two phases, PM Rowe informed. Commissioners discussed the details. Now, residents of the two phases are having a controversy as to the location of the sound wall; and the Butterfield extension has been completed. Currently, residents of the housing developments are being polled by the two Homeowner’s Associations to determine the wishes of those groups. Consequently, a request has been made to continue the hearing and decision to the first Commission meeting in February.

Chair Mueller opened the public hearing.

With no members of the public indicating a wish to speak to the matter, Chair Mueller halted discussion and **COMMISSIONERS ACEVEDO/ESCOBAR MOTIONED TO CONTINUE THE MATTER TO THE FEBRUARY 10, 2004 MEETING OF THE MORGAN HILL PLANNING COMMISSION.** Commissioner Engles asked clarification regarding the location of the sound wall. PM Rowe explained the boundaries and conditions between the two subdivisions. He reiterated the commitment to put in the sound wall. He went on to say that the wall had not been placed, and explained the problems in the area and reasons for inactivity on the fencing. Now, there appears to be a safety issue for children for one group and open space visibility issue for residents of the other subdivision, but both groups have informed that discussions are ongoing. **THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.** Commissioner Acevedo reminded that the chain link fence is not in compliance with the regulations of the City.

OTHER BUSINESS:

8) RDCS QUARTERLY REPORT

PM Rowe presented the staff report and invited questions regarding this 4th Quarter Report.

Chair Mueller called attention to the Grand Totals on page 13, noting it should be ~~2004-05~~ 2006-07.

Commissioner Lyle said that the # of units column is incorrect ~~865~~ 860.

Commissioner Benich turned to the issue of age of some of the projects. “Why are we still carrying projects over 12 years old?” he asked. PM Rowe provided the history of

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 18

such projects and told Commissioners those few projects could be considered on March 23, 2004 as part of supplementals, with that action dependent on the passage of Measure P Update.

PM Rowe also reviewed those in projects where the BMRs have not been completed. Chair Mueller said if the BMRs were to be finished, it could help the Housing Element.

It was ascertained the also on the 23rd of March, a status report on the sales prices of local completed housing will be heard.

COMMISSIONERS LYLE/ESCOBAR MOTIONED ACCEPTANCE OF THE RDCS FOURTH QUARTER REPORT, AS AMENDED AND SO NOTED. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL THE COMMISSIONERS PRESENT.

9) UP-99-07: CITY OF MORGAN HILL-COMMUNITY AND CULTURAL CENTER

Review of parking conditions.

PM Rowe reported on the few occasions when parking was not enough for special events. "There has not been a lot of coordination between The Playhouse and The Cultural Center for parking," PM Rowe said. Now the bookings at the Community Center are not to the point of full use; so there is not a huge problem, but enough glitches suggest the need to continue monitoring parking plan. Planning staff, PM Rowe said, will work with events coordinator and new staff to ensure effective monitoring for compliance and resolution. PM Rowe reiterated there is not a real problem except some special events – suggesting, though, that the monitoring continue.

Commissioner Weston asked when it anticipated Depot St. will be closed? SE Creer responded it is expected that won't occur for at least ten years.

Commissioner Benich said he thinks glitches with the parking will increase. He cited as an example, this past Christmas, when 'Christmas in the Park' was the only event scheduled for the Community Center, he got the last parking space. Commissioner Benich added, "There were a lot of other drivers looking around." Chair Mueller commented that in the Downtown Plan, the parking provision provides for increased parking along the railroad.

Commissioner Lyle suggested that the monitoring continue for 14 months and a report be given to the Commissioners during the first quarter of 2005.

BY CONSENSUS, THE COMMISSIONERS AGREED THE PARKING AT THE COMMUNITY CENTER AND THE PLAYHOUSE BE MONITORED, WITH A REPORT TO BE PROVIDED – BARRING ISSUES OF CONCERN – DURING THE FIRST QUARTER OF 2005. Should concerns arise; the matter will be scheduled for hearing during that time period.

ANNOUNCEMENTS: Chair Mueller said there will be a public meeting at the new Library in San Jose on Thursday, January 27, at 1:00 p.m. regarding the high speed rail system.

PLANNING COMMISSION MEETING MINUTES

JANUARY 27, 2004

Page 19

Commissioner Weston announced he will not be in attendance at the next two meetings.

ADJOURNMENT:

With no further business to come before the Commission, the meeting was adjourned at 11:20 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk